

Remarks

Claims 1-33 are pending, and claims 1-33 stand rejected. Claims 7, 13-14, and 23 are amended by this Response. The Applicants respectfully traverse the rejection and request allowance of claims 1-33.

Oath/Declaration

The Applicants are attempting to get a new Declaration signed by Jody Krivohlavek. The Applicants ask the Examiner to continue with prosecution of this application while the Applicants get the new Declaration.

§ 101 Claim Rejections

The Applicants amended claim 23 to read "computer-readable medium" as suggested by the Examiner. This amendment was not to distinguish from any cited prior art, so the Applicants submit that no estoppel is created by this amendment.

§ 102 Claim Rejections

The Examiner rejected claims 1-3, 5-15, 17-26, and 28-33 under 35 U.S.C. § 102 as anticipated by U.S. Patent number 6,269,150 (Herrbach). The Applicants submit that claims 1-3, 5-15, 17-26, and 28-33 are not anticipated by Herrbach.

Claim 1 is as follows:

A method of automating testing of a communication system including communication resources, the method comprising:

selecting a first test from a plurality of tests stored in a test database;
processing the first test to identify at least one first communication resource related to the first test;
determining if the at least one first communication resource related to the first test is available for the first test before executing the first test; and
generating a first execute instruction to execute the first test responsive to the at least one first communication resource related to the first test being available for the first test.

According to claim 1, one of the plurality of tests is selected. Before the selected test is run, the resources related to the test are identified and a determination is made whether the

identified resources are available for the test. If the resources are available, then the selected test can be run.

Herrbach does not teach the method of claim 1. In Herrbach, a set of tests called a test suite is set up. *Herrbach*, column 4, lines 59-60. Resources needed for the test suite are then selected and acquired. *Herrbach*, column 5, lines 2-10. The next test of the suite of tests is then identified according to the test suite program, and the test is run. *Herrbach*, column 5, lines 11-13. The test that is running acquires the needed resources and performs functions not applicable to this discussion. *Herrbach*, column 5, lines 21-27.

Herrbach has many differences compared to claim 1 of the pending application. Herrbach acquires resources for the entire test suite. *Herrbach*, column 5, lines 2-10. Claim 1 does not identify resources for the entire plurality of tests, but identifies resources for individual tests to determine if that test should be run. Herrbach sequentially goes through the tests in the test suite. *Herrbach*, column 5, lines 46-47. Claim 1 does not necessarily go through the plurality of tests sequentially, but goes through the plurality of tests based on the availability of resources for the individual tests. Herrbach acquires resources for individual tests after the test is already running. *Herrbach*, column 5, lines 21-27. Claim 1 may acquire resources after the test is running, but claim 1 identifies the resources and determines whether the resources are available before running the test.

Thus, the Applicants submit that Herrbach does not teach the limitations of "*processing the first test to identify at least one first communication resource related to the first test*", and "*determining if the at least one first communication resource related to the first test is available for the first test before executing the first test*" as provided in claim 1. In rejecting these limitations, the Examiner cited column 3, lines 56-57 and column 5, lines 2-3 in Herrbach. See *Office action*, page 3. Column 3, lines 56-57 in Herrbach describes a scenario where, during the performance of a test, alternative resources may be acquired if the test fails. *Herrbach*, column 3, lines 49-58. This section does not provide that resources are identified and their availability determined before running the test as provided in claim 1. Column 5, lines 2-3 in Herrbach provides that resources for the entire suite are selected. The Applicants already explained that claim 1 does not acquire resources for all of the plurality of tests at the beginning of testing, but handles tests individually. Therefore, the Examiner has failed to show where Herrbach teaches the limitations above.

Based on the above remarks, the Applicants submit that claim 1 is novel over Herrbach. The same argument applies for other claims.

§ 103 Claim Rejections

The Examiner rejected claims 4, 16, and 27 under 35 U.S.C. § 103 in view of Herrbach and U.S. Patent Application Publication 2002/0124205 (Grey). The Applicants submit that claims 4, 16, and 27 are novel and non-obvious over Herrbach and Grey for the same reasons provided above.

Conclusion

Based on the above remarks, the Applicants submit that claims 1-33 are allowable. There may be additional reasons in support of patentability, but such reasons are omitted in the interests of brevity. The Applicants respectfully request allowance of claims 1-33.

Any fees may be charged to deposit account 21-0765.

Respectfully submitted,

Date: 7-20-04



SIGNATURE OF PRACTITIONER

Brett L. Bornsen, Reg. No. 46,566
Duft Setter Ollila & Bornsen LLC
Telephone: (303) 938-9999 ext. 17
Facsimile: (303) 938-9995

Correspondence address:

CUSTOMER NO. 28004

Attn: Harley R. Ball
6391 Sprint Parkway
Mailstop: KSOPHT0101-Z2100
Overland Park, KS 66251-2100